

## **II. Remarks**

### **A. Status of the claims**

Claims 1-11 are currently pending. Claim 1 has been amended without prejudice. Support for the amendment to claim 1 can be found in the specification as originally filed, e.g., in paragraph [0090]. Applicants respectfully submit that no new matter has been added by virtue of this amendment.

### **B. Claim Rejections Under 35 U.S.C. § 103(a)**

In the Final Office Action, claims 1-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,297,031<sup>1</sup> to Gutterman et al. in view of Applicants' admitted prior art.

This rejection is respectfully traversed. Applicants submit that the combined teachings of Gutterman et al. fail and Applicants' admitted prior art fail to render obvious the methods for providing a computerized transaction interface system to a plurality of exchanges, as presently claimed. The Examiner is reminded that pursuant to MPEP, 8<sup>th</sup> Ed., 7<sup>th</sup> Rev. § 2142, to establish a prima facie case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in *KSR* has further noted

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<sup>1</sup> Applicants note that the Final Office Action recites that the 103 rejection is over U.S. Publication No. 2003/012063 to Reuter et al. See Final Office Action at page 3. However, as confirmed in a telephone conference on March 13, 2009 between Applicants' representative and Examiner Chencinski, the rejection is

that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit.

Therefore, it is clear that an obviousness rejection “cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, “[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” MPEP, 8<sup>th</sup> Ed. 7<sup>th</sup> Rev. § 706.02(j).

In making the rejection, the Examiner indicated that Gutterman et al. describe the limitation of “automatically selecting, by a facilitation server, one of the plurality of exchanges for execution of the client order based on one or more contract in the order and *base on electronically stored routing rules*”, specifically at col. 6, lines 33-35 of Gutterman et al. See Final Office Action at page 4. Contrary to the Examiner’s assertion, Applicants point out that Gutterman et al. do not teach or suggest electronically stored routing rules, as presently claimed, but rather Gutterman et al. recite how “[t]he broker workstation in accordance with the [Gutterman et al.] invention is an electronic replication of the broker’s management of the orders in his deck.” Gutterman et al. at col. 6, lines 33-35. Applicants submit that the “electronic replication of the broker’s management of the orders” is not analogous with the claimed limitation of “electronically stored routing rules”. However, in order to expedite prosecution of the application, claim 1 has been amended

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over U.S. Patent No. 5,297,031 to Gutterman et al.

without prejudice to recite the further limitation that the electronically stored routing rules “do not handle cancel/replace messages”. Applicants submit that Gutterman et al., alone or in combination with Applicants’ admitted prior art, fail to render obvious this further limitation.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be removed.

**III. Conclusion**

In view of the amendments made and arguments presented, it is believed that all claims are in condition for allowance. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is invited to telephone the undersigned at (973)597-6162. The undersigned also may be contacted via e-mail at [epietrowski@lowenstein.com](mailto:epietrowski@lowenstein.com). All correspondence should be directed to our address listed below.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 50-1358.

Respectfully submitted,  
Lowenstein Sandler PC

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